

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

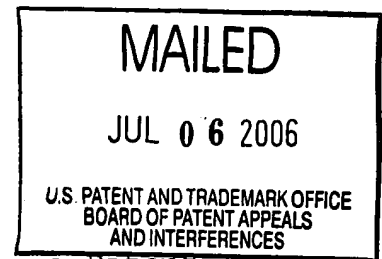
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID Y. SCHLOSSMAN, BURLINGAME, WILLIAM H. WELLING

Appeal No. 2006-0862
Application No. 10/039,928

ON BRIEF



Before BARRETT, RUGGIERO, and BARRY, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-7, which are all of the claims pending in this application.

The disclosed invention relates to the configuration of a communications system in which samples of Call Detail Recording (CDR) messages are sent to a central configuration server from a local call accounting system connected to a PBX system. The sample CDR messages are analyzed at the configuration server to determine the PBX type and an appropriate PBX interface file is transmitted back to the call accounting system.

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Representative claim 1 is reproduced as follows:

1. A method of configuring a communication system comprising:

recording details of the operation of said communication system;

electronically communicating said details of operating to configuration server;

examining said details of operation and generating identification data identifying said communication system; and

transmitting said identification data to said communication system to facilitate configuration of said communication system.

The Examiner relies on the following prior art:

Dolin, Jr. et al. (Dolin)	5,420,572	May 30, 1995
Lucas et al. (Lucas)	5,703,938	Dec. 30, 1997

Claims 1-3, 6, and 7 stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Dolin. Claims 4 and 5 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolin in view of Lucas.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs¹ and Answer for their respective details.

¹ The Appeal Brief was filed May 12, 2003. In response to the Examiner's Answer mailed July 1, 2003, a Reply Brief was filed July 24, 2003 which was acknowledged and entered by the Examiner as indicated in the communication mailed August 7, 2003.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner, the arguments in support of the rejections, and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the disclosure of Dolin fully meets the invention as recited in claims 1-3, 6, and 7. In addition, with respect to the Examiner's obviousness rejection, we are of the opinion that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the invention as set forth in the appealed claims 4 and 5.

We consider first the Examiner's 35 U.S.C. § 102(e) rejection of claims 1-3, 6, and 7 based on Dolin. At the outset, we note that it is well settled that anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations.

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RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to independent claim 1, the Examiner indicates (Answer, pages 4 and 5) how the various limitations are read on the disclosure of Dolin. In particular, the Examiner directs attention to various portions of columns 5-7, 11, and 12 of the disclosure of Dolin.

In our view, the Examiner's analysis is sufficiently reasonable that we find that the Examiner has at least satisfied the burden of presenting a prima facie case of anticipation. The burden is, therefore, upon Appellants to come forward with evidence and/or arguments which persuasively rebut the Examiner's prima facie case. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived [see 37 CFR § 41.37(c)(1)(vii)].

Appellants' arguments in response assert that the Examiner has not shown how each of the claimed features are present in the disclosure of Dolin so as to establish a case of anticipation. In particular, Appellants contend (Brief, pages 3 and 4; Reply

Brief, page 2) that the Dolin reference does not provide for the recording of details of the operation of a communication system to identify and then configure the communication system as claimed. According to Appellants, Dolin merely uses information stored in the system at the time of manufacture to configure the system.

After reviewing the Dolin reference in light of the arguments of record, however, we are in general agreement with the Examiner's position as stated in the Answer. Our review of the disclosure of Dolin finds ample support for the Examiner's position that Dolin records and uses operational details of the operation of the described communication system nodes for configuration purposes.

In particular, we find that Dolin draws a distinction between the 48-bit node id and the node type information. We agree with Appellants that Dolin discloses that the node id is assigned to the node at the time of manufacture (Dolin, column 11, lines 42-44) and, further, that Dolin indicates (column 11, lines 44-46) "in a preferred embodiment" that node type is configured at the time of manufacture.

It is clear to us, however, that other portions of the disclosure of Dolin indicate that the node type information is node operation dependent and that this operation dependent information is used by the controller to configure the node.

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For example, column 11, lines 29-30 of Dolin describes the node type data as being implementation dependent and further (column 11, lines 30-32) that the node type data "can include information about the nodes operation." Further evidence that Dolin contemplates node configuration using node operation details transmitted from the service pin 304 appears at column 11, line 51 where a node re-configuration is disclosed which, at the very least, suggests a configuration sometime after the initial manufacturer installation.

We also make reference to Dolin's description (column 12, line 53 through column 13, line 36) of the LED sensor 302 which is coupled with the bi-directionally coupled service pin 304 and which provides node operational status information to the node configuration controller 310. We fail to see why this status information, such as node malfunction, unconfigured status, no application loaded (Dolin, column 13, lines 27-30), would not be considered "operational details" of the communication system as broadly claimed by Appellants.

In view of the above discussion and considering the entirety of the Dolin reference, since all of the claimed limitations are present in the disclosure of Dolin, the Examiner's 35 U.S.C. § 102(e) rejection of independent claim 1, as well claims 2, 3, 6, and 7 not separately argued by Appellants, is sustained.

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We also sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claims 4 and 5, directed to a sample message feature, based on the combination of Dolin and Lucas. Appellants have not separately argued the limitations in these claims and instead have relied on arguments made with respect to independent claim 1, which arguments we found to be unpersuasive for all of the reasons discussed supra.

In summary, we have sustained the Examiner's 35 U.S.C. § 102(e) rejection of claims 1-3, 6, and 7, as well as the 35 U.S.C. § 103(a) rejection of claims 4 and 5. Therefore, the decision of the Examiner rejecting claims 1-7 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective September 13, 2004).

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AFFIRMED


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LEE E. BARRETT

LEE. E. BARRETT
Administrative Patent Judge

Joseph F. Ruggi
JOSEPH F. RUGGI

JOSEPH F. RUGGIERO
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